IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 2908 of 2000

For Approval and Signature:

HON'BLE MR.JUSTICE AKSHAY H.MEHTA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

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GOPALBHAI DEVJIBHAI PARMAR

Versus

STATE OF GUJARAT,THROUGH SECRETARY

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Appearance:

1. Special Civil Application No. 2908 of 2000

MS SADHANA SAGAR for Petitioner No. 1

MR PRADIP BHATE A.G.P. for Respondent No. 1

NOTICE SERVED for Respondent No. 2-3

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CORAM : HON'BLE MR.JUSTICE AKSHAY H.MEHTA

Date of decision: 29/03/2004

ORAL JUDGEMENT

The grievance of the petitioner is that though he has been working on part time basis since 29th January,

1994, his service has not been regularized.

1.1. From the record of the petition, it appears that the petitioner was appointed as part time sweeper on 29th January, 1994. Initially he was required to work for one hour in morning at a monthly salary of Rs.100=00 per month. He wrote a letter dated 7th July, 1995 to the respondents to regularize his service and to appoint him on permanent post. However, his request was not granted. It appears that with effect from 12th January, 1999, he was also required to work for one hour in the evening i.e. total two hours in a day.

1.2. It is stated by Ms. Sadhna Sagar learned advocate appearing for the petitioner at bar that even today, he has been working for two hours in a day at Rs.450=00 per month.

2. As against that, no affidavit has been filed by the other side and the averments made in the petition remain uncontroverted.

3. The question regarding regularization of service on temporary or part time employee who has put in number of years of service has been considered and decided by this Court in Special Civil Application No. 8917 of 1998 and its cognate matters by judgment dated 17th February, 2004. In view of the said judgment, this petition deserves to be allowed with the following directions :-

The respondents are, therefore, now required to be directed that irrespective of the Circular of 21st August, 1995, they shall consider the case of the petitioner for appointment on permanent post in Class-IV and if the permanent posts are found vacant, he shall be appointed on the same in accordance with his claim, in the matter of seniority and the Regulations and if otherwise, he is not ineligible, Appointment should not be denied on the ground of overage or on the ground that it may amount to giving a back-door entry. This exercise to be carried out as early as possible but in any case not later than 30th May, 2004. If need be, the petitioner can make appropriate representation, which will be considered in light of this judgment and in particular, the direction given therein.

The petition is, therefore, partly allowed. Rule is made absolute to the aforesaid extent with no order as to costs.

[AKSHAY H.  MEHTA, J.]

/phalguni/